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November 13, 2006

BY HAND AND ELECTRONIC MAIL

Ms. Mary Dove
Commission Secretary
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 5741
Charlie Melancon Campaign Committee

Dear Ms. Dove:

Pursuant to 11 C.F.R. § 111.16(c) (2006), I write on behalf of my clients, the Charlie Melancon Campaign Committee and Jess Waguespack, in his official capacity as treasurer ("Respondents"). Through this letter, we respond to the General Counsel's September 27, 2006, brief, which urged the Commission to find probable cause to believe that Respondents violated 2 U.S.C. § 434(b) (2006).

STATEMENT OF FACTS

The facts of this matter are simple and undisputed. The Charlie Melancon Campaign Committee is the principal campaign committee of Representative Charles Melancon of Louisiana. He was elected in a runoff election held on December 3, 2004. With the November 2 general election over, and with control of the Congress narrowly divided, the Louisiana runoff election was intensely competitive and a focus of wide national attention. The final stretch of Mr. Melancon's campaign saw a vastly expanded universe of staff and volunteers.

Mr. Melancon won the December 3 runoff. At that point, almost everyone who worked on the campaign left the district, either to help the transition or to take other jobs. The

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Committee was without any experienced compliance personnel. Moreover, the database on which the Committee relied to prepare its reports had not been updated. The Committee was required to file a 30-Day Post-Runoff Report on January 3, 2005, just before Mr. Melancon was to take office in Washington. The report was filed hastily from the incomplete database, and \$656,823.30 in disbursements were omitted by mistake. As the General Counsel indicated at the "reason to believe" stage, the vast majority of the omitted amount – \$571,860.23 – was for seven media buys. See Factual and Legal Analysis, MUR 5741, at 2 n.1.¹

It was the Committee – not the Commission or any third party – that discovered the missing disbursements. It hired an experienced compliance specialist to prepare its January 31 Year-End Report. While preparing that report, the specialist discovered the missing disbursements. She reconciled the Committee's financial activity and prepared an amended Post-Runoff Report, which was filed along with the Year-End Report. The corrective action taken by the Committee was done entirely of its own initiative, and less than a month after the mistake had been made.

Yet the Committee's corrective action prompted the Commission to initiate this matter. On April 26, 2005, the Commission's Reports Analysis Division sent the Committee a Request for Additional Information, noting the "substantial increase" in activity on the Amended Post-Runoff Report and asking the Committee to "amend your report to clarify why this additional activity was not provided with your original filing." When the Committee responded, RAD referred the matter to the Office of General Counsel for enforcement.

On June 30, 2006, the Committee responded to the Commission's "reason to believe" finding.

¹ Some information about these media buys would have already been in the public domain through the Federal Communications Commission's "political file" requirement, although not with the detail or accessibility of Commission reports.

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DISCUSSION

There is no dispute about the facts of this matter. Nor is there any dispute about whether Respondents should take responsibility for the initial failure to disclose; they understand there must be some financial consequence for their lapse. The question is how severe that consequence should be, against facts like these – where the initial failure was inadvertent and non-election sensitive; where the correction was swiftly made; and where Respondents took the initiative.

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Very truly yours,



Brian G. Svoboda
Counsel to Respondents

Enclosures

cc: Chairman Toner
Vice Chairman Lenhard
Commissioner Mason
Commissioner von Spakofsky
Commissioner Walther
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